

AG Contract No. KR02-1897TRN  
ADOT ECS File No. JPA 02-059  
**Amendment No. 1**  
Section: 64<sup>th</sup> Street TI @ 101L  
(Scoping/Environmental/Design)  
**TRACS No.: H 6240 01D / S1D**  
**Budget Source Item No.: 25205**  
**City Clerk Number: 102200**

**AMENDMENT NO. 1  
TO  
INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF PHOENIX**

**THIS AGREEMENT** is entered into this date September 14, 2005, **Amendment One** to JPA 02-059, AG Contract No. KR02-1897TRN, filed with the Secretary of State under No. 25792, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PHOENIX, acting by and through its CITY MANAGER (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by City Charter Chapter II, Section 2.i. to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

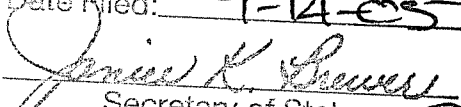
3. This Agreement is being amended as follows: **a)** Include the final design for 64<sup>th</sup> Street from 101L to Mayo Boulevard; **b)** Add the Non-Availability of Funds; and **c)** Add Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) to the Agreement under the Miscellaneous Provisions.

**Paragraph 4 is added in full as follows:**

4. In addition, the final design for 64<sup>th</sup> Street from 101L to Mayo Boulevard is to be included in the Agreement, for an estimated amount of \$284,742.00, to be funded by the City for 64<sup>th</sup> Street per paragraph II.1.i and II.2.h under the Scope of Work, of the Agreement.

**THEREFORE**, in consideration of the mutual agreements expressed herein, it Agreement is amended as follows:

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NO. 25792  
Filed with the Secretary of State  
Date Filed: 9-14-05  
  
Secretary of State

By: 

**I. SCOPE OF WORK**

1. The State shall:

**Article II, Paragraph 1. i., j., and k., are added in full as follows:**

i. Upon execution of this Amendment No. 1, invoice the City an estimated amount of \$284,742.00 to complete the final design of 64<sup>th</sup> Street from 101L to Mayo Boulevard for the Project, which includes a fixed cost/lump sum for \$13,559.00 for the State's design administration fee, as shown on Exhibit "B". The State shall administer the Consultant and make all payments to the Consultant. Confer with the City on any Design Consultant related contract modifications. Be responsible for any Design Consultant claims for extra compensation attributable to the State.

j. Upon receipt of the \$284,742.00, issue a Notice to Proceed (NTP) to the Consultant associated with the Project.

k. Upon completion of the final design documents, will invoice the City any difference between the initial estimated amounts paid by the City and the actual costs associated with the preparation of the final design documents.

2. The City shall:

**Article II, Paragraph 2. g., h., and i., are added in full as follows:**

g. Upon execution of this Amendment No. 1, hereby designates the State as authorized agent for and on behalf of the City, to retain and contract a consultant to prepare final design documents for 64<sup>th</sup> Street from 101L to Mayo Boulevard.

h. Upon execution of this Amendment No. 1, remit to the State, \$284,742.00 for the estimated cost to complete the Project, which includes a fixed cost/lump sum of \$13,559.00 for the State's design administration fee, as shown on Exhibit "B", attached hereto and made a part hereof.

i. Upon approval of the final design documents and receipt of a final invoice from the State, remit any balance for the actual costs associated with the Project, including any additional costs for the State's design administration fee, in excess of the amount included with the estimated Project costs.

**III. MISCELLANEOUS PROVISIONS****Article III, Paragraphs 8 and 9 are added in full as follows:**

8. Americans with Disabilities Act: This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The provisions of Arizona Revised Statutes § 41-1463 and Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State or the City as applicable at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised, and the State and City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

**EXCEPT AS AMENDED HEREIN**, all other terms and conditions of the Agreement remain in full force and effect.

**CITY OF PHOENIX**, an Arizona municipal corporation, Frank Fairbanks, City Manager

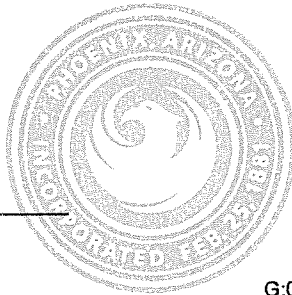
**STATE OF ARIZONA**  
Department of Transportation

By *Ross D. Blakley Jr.*  
ROSS D. BLAKLEY, JR., P.E.  
Acting Street Transportation Director

By *Daniel S. Lance*  
DANIEL S. LANCE, P.E.  
Deputy State Engineer Valley Transportation

**ATTEST:**

By *Vicky Miel*  
VICKY MIEL  
City Clerk



G:02-059-VPM-PHX-Amend One-Draft-Rev 2-28 July 2005-slc

CITY CLERK DEPT.  
94c  
2005 AUG 23 AM 11:51

JPA 02-059

**Amendment No. 1**

**APPROVAL OF THE CITY OF PHOENIX**

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PHOENIX an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 19 day of August, 2005.

Gene U. Sears

ACTING  
*MB*

City Attorney

ORDINANCE NO. S-32286

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA THROUGH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO DESIGN IMPROVEMENTS TO 64<sup>TH</sup> STREET FROM LOOP 101 TO MAYO BOULEVARD; AND FURTHER AUTHORIZING THE CITY CONTROLLER TO DISBURSE FUNDS FOR PURPOSES OF THIS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. The City Manager is authorized to enter into an amendment to the intergovernmental agreement with the State of Arizona through the Arizona Department of Transportation to design improvements to 64<sup>th</sup> Street from Loop 101 to Mayo Boulevard.

SECTION 2. The City Controller is authorized to disburse funds in the amount of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for purposes of this Ordinance.

PASSED by the Council of the City of Phoenix this 1st day of July, 2005.

MAYOR

ATTEST:

Vicky Miel City Clerk



2005 JUL 29 AM 8:49  
CITY CLERK DEPT.

APPROVED AS TO FORM:

William Beck Acting City Attorney  
YWS

REVIEWED BY:

Frank Fairbanks City Manager

DLB:tml/CM 8/7-1-05/182178v1

**CITY OF PHOENIX  
REQUEST FOR COUNCIL ACTION**

Complete this form per O.P. 1.906 and A.R. 4.11.  
Refer to the City Council Agenda Process Reference Guide for Assistance

<b>ACTION REQUESTED</b>	Formal Action: Bid Award <input type="checkbox"/> License Application <input type="checkbox"/> Public Hearing <input type="checkbox"/> Other <input type="checkbox"/>	OR	Legal Document: Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/>  Emergency Clause? <input type="checkbox"/> (for use only w/ord. or res. requests)
<b>IMPACTED DISTRICT(S)</b>	DISTRICT 2	<b>ADDITIONAL BACKUP MATERIAL SENT UNDER SEPARATE COVER?</b>	<input type="checkbox"/>
<b>SUBJECT</b>	AMENDMENT TO INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION - 64 <sup>TH</sup> STREET		
<b>REQUESTED AGENDA DATE</b>	7/1/2005	<b>PREPARED BY</b>	Name Briana Leon Department Street Transportation Phone 495-3697
<b>APPROVALS</b>	Division Head: Department Head:	J. Donald Herp, P.E. Ross D. Blakley, Jr., P.E.	If prepared for another department: Department Name: Approval:
<b>BID AWARD INFORMATION</b>	Bid Surety Required? <input type="checkbox"/> Submitted by Low Bidder? <input type="checkbox"/> Contract Required? <input type="checkbox"/>	Performance Surety Required <input type="checkbox"/> Amount? Requisition No.	
<b>CONTRACT INFORMATION</b>	Contract Amendment? <input type="checkbox"/> If Yes, Current Contract No.  Approved by: Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Formal Action <input type="checkbox"/> on Date:		
<b>BUDGET INFORMATION</b>	\$ 300,000.00 To Be Encumbered? <input checked="" type="checkbox"/> Source of Funds: AHUR Fiscal Year? 2005/06 Fund Center(s) (SAP-FM): ST85100255 Commitment Item(s) (SAP-FM): 510030 Availability of Funds Approval Lauri L. Wingenroth		
<b>CITY MANAGER'S OFFICE</b>	Approved by Thomas E. Callow, P.E. 6/13/05		CM Control No. 08
<b>CITY CLERK DEPARTMENT</b>	Council Action Taken: Adopted Ordinance Number: S-32286 Resolution Number: Comments:		
	RCA No. 49327 Contract No. Meeting Date 7/1/2005 Item No. 170		

**ITEM****DISTRICT 2****AMENDMENT TO  
INTERGOVERNMENTAL  
AGREEMENT WITH ARIZONA  
DEPARTMENT OF  
TRANSPORTATION – 64<sup>TH</sup>  
STREET**

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Request to authorize the City Manager to enter into an amendment to an existing Intergovernmental Agreement (IGA) with the Arizona Department of Transportation (ADOT) to design improvements to 64<sup>th</sup> Street from Loop 101 to Mayo Boulevard, and authorize the City Controller to disburse the funds.

The City had previously entered into an agreement with ADOT for preliminary design of the 64<sup>th</sup> Street interchange on Loop 101. The amendment to this agreement will obligate ADOT to design improvements to 64<sup>th</sup> Street, using City standards, from the Loop 101 interchange south to Mayo Boulevard, the nearest existing City east-west arterial street. The City will reimburse ADOT for these design costs.

**Financial Impact**

The estimated design cost is \$300,000. Funds are available in the Street Transportation Department Capital Improvement Budget using Arizona Highway User Revenue Funds (AHUR).

**Citizen Notification**

During the design process, a public meeting(s) will be held to provide information and opportunity for citizen input.





Terry Goddard  
Attorney General

**OFFICE OF THE ATTORNEY GENERAL  
State of Arizona**

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602 542 8855

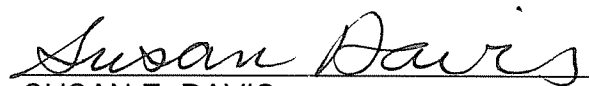
**INTERGOVERNMENTAL AGREEMENT  
DETERMINATION**

A.G. Contract No. KR02-1897TRN (**JPA 02-059, Amendment No. 1**), an Agreement between public agencies, i.e., The State of Arizona and The City of Phoenix, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: September 12, 2005

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:mjf:923272  
Attachment

# Exhibit “B”

## Cost Estimate

(JPA 02-059 Amendment One)

64<sup>th</sup> Street TI/101L Pima Freeway  
Final Design for 64<sup>th</sup> Street from 101L to Mayo Boulevard

Engineering/Design 64 <sup>th</sup> Street, south limit of ADOT PCCP to Mayo Blvd. (AZTEC Engineering) H6240 01D	\$271,183.00
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Subtotal	\$271,183.00
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ADOT Design Administration Fee (Fixed Cost) H 6240 S1D	<u>\$ 13,559.00</u>
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Total Estimated Costs	\$284,742.00
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